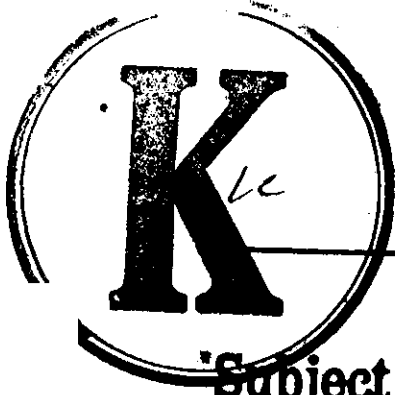


1947.

File No. O Pension/4



Legal DEPARTMENT
A BRANCH

Subject:—

Opinions under the Pensions Act 1871

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Opinions under the pensions
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1. O.No. 11064
Dt. 20.11.47

Rule 13.

Question whether it would be
legal to refuse payment of
arrears prior to the date of
the application by Mr. V.K.
Kulkarni and if not, what
extent of arrears should be
admitted.

1 - 2.

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M.V.V.
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Office of the R.L.A.

Payment of arrears of
Pensions:
 Pensions Act,
 1871 - Rule 15.

Mr. V.K. Kulkarni, the holder of the commutation cash allowance of Rs. 7-7-4 in the village Pathrestup in Rahuri taluka of the Ahmednagar District did not claim the cash allowance for more than six years and his name was struck off by the Kanlatdar in 1945 under rule 14 of the Pension Rules. He has requested the Collector on 16th November 1946 to admit his claim for payment of the commutation allowance and arrears on the ground that he was serving in the Military. The R.D. proposes to admit the claim of Mr. V.K. Kulkarni for admission from the date of his application i.e. 16th November 1946 and reject the claim for past arrears under rule 15. The R.L.A. is requested to state whether it would be legal to refuse payment of arrears prior to the date of his application, and if not, what extent of arrears should be admitted.

Rule 15 of the Pension rules made under the Pension Act, 1871 provides:-

"Where a pension or grant which has been struck off under rule 14 or held under a permanent or hereditary title, the Collector may sanction re-admission of the same without payment of arrears, if a claim thereto is duly preferred under section 5 of the Act within 12 years from the date of the last payment."

Mr. V.K. Kulkarni has preferred a claim for re-admission within 12 years from the date of the last payment; consequently it would be competent for the Collector to sanction re-admission of his claim without payment of arrears. Under rule 20, pensions and grants will be paid only to those persons whose names have been authorisedly entered in the records as the payees thereto or to the duly empowered attorneys or Mukhtyars or if they are minors, to their administrators. It is apparent from this rule that unless and until Mr. V.K. Kulkarni's name is re-entered in the records as the payee, he would not be entitled to any pension. On his re-admission he can

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claim pension which will be due thereafter. It follows, therefore, that he can have no claim for past arrears and would he be entitled to arrears due from the date of his application, for his claim, for future pension would be revived only after his re-admission. Consequently it would be legally in order not only to refuse payment of arrears prior to the date of his application but also to arrears which would be due until his re-admission. However, it is for the Department to consider whether payment of the arrears since the time he joined active service should be made ex-gratia and limitation condoned on the analogy of the principles contained in the Indian Soldiers (Litigation) Act, 1925.

34/-

19.11.47

Remembrancer of Legal Affairs.

U.R. to R.D. No.11064 dated the 20th November 1947.

A-Cu.
M.V.V.
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